

UNITED STATES v. TIMOTHY PAUL BARTH

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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff, Case No. 16-20831

-vs-

Detroit, Michigan

TIMOTHY PAUL BARTH, August 22, 2017

Defendant.

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TRANSCRIPT OF SENTENCE HEARING

BEFORE THE HONORABLE VICTORIA A. ROBERTS

UNITED STATES DISTRICT COURT JUDGE

APPEARANCES:

For the Government: Sara D. Woodward
United States Attorney's Office, General Crimes
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Detroit, MI 48226

For the Defendant: David S. Steingold
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T A B L E O F C O N T E N T SWITNESSES: PAGECHRISTINE BARIN (Government)

Examination by the Court 18

Examination by Ms. Woodward 20

BONA MATTSHECK BARTH (Defense)

Examination by Mr. Steingold 23

Examination by Ms. Woodward 27

E X H I B I T SNUMBER IDENTIFICATION RECEIVED

None.

UNITED STATES v. TIMOTHY PAUL BARTH

Detroit, Michigan

Tuesday, August 22, 2017

(At about 11:25 a.m.)

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(Call to Order of the Court)

THE CLERK OF THE COURT: The Court calls the case of United States of America versus Timothy Paul Barth, case number 16-20831. Counsel, please state your appearances for the record.

MS. WOODWARD: Good morning, Your Honor. Sara Woodward on behalf of the United States. With me at counsel table is Special Agent Jay Ratermann with the Department of Homeland Security.

THE COURT: Thank you.

MR. STEINGOLD: Good morning, Your Honor. David Steingold for Dr. Timothy Paul Barth who's present to my right.

THE COURT: Thank you. You can take your seats.

This is the time the Court has set to impose sentence on Mr. Barth. He pled guilty to Count One of the Indictment against him that charges him with Receipt of Child Pornography in violation of 18 U.S. Code 2252(a)(A)(2) and 2252(a)(B)(1).

I have -- I just want to say what I have here before I get underway. I have the Presentence Investigation Report prepared by Lee Sharp and he is here. I have a Sentencing Memorandum filed by both Mr. Steingold and Miss Woodward, and a number of

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1 exhibits attached to both of the Sentencing Memoranda. I have
2 an unopposed Motion to Amend the Stipulated Order of Forfeiture
3 and I have a letter that is signed by Christine Denise Barin.

4 Is Miss Barin here today?

5 MS. WOODWARD: She is, Your Honor.

6 THE COURT: She is? And is it her intention to speak?

7 MS. WOODWARD: I don't believe so, but I was going to
8 confirm that you had received her letter and let you know that
9 she is present.

10 THE COURT: I do have the letter, and she would be who
11 is identified in documents as C.B.?

12 MS. WOODWARD: That's correct.

13 THE COURT: Thank you. So did I say everything I
14 should have in front of me for purposes of this sentencing,
15 Counsel? Miss Woodward?

16 MS. WOODWARD: Yes, Your Honor.

17 THE COURT: Mr. Steingold?

18 MR. STEINGOLD: Yes, Your Honor, I believe so.

19 THE COURT: Thank you. So, Mr. Steingold, there are a
20 number of objections you have to the Presentence Investigation
21 Report. I think most of them are tied to whether the Court is
22 going to add the five-point enhancement under 2G2.2(b)(5); is
23 that an accurate statement?

24 MR. STEINGOLD: That is an accurate statement.

25 There's one exception of course and that is kind of related and

1 that's my personal belief that my Objection Number Five that
2 Mr. Sharp shouldn't weigh in on the matter, that that usurps
3 the function of the Court, but again, that's all tied to the
4 requested additional five points to the Guidelines.

5 THE COURT: All right. I'll hear from you if you have
6 something to add to your objections.

7 MR. STEINGOLD: Your Honor --

8 THE COURT: Mr. Steingold, I have a request for you to
9 speak louder.

10 MR. STEINGOLD: Your Honor, I will. I'm somewhat
11 taken aback because I had no idea that Christine Barin was
12 going to be present. I did not know whether the letter I
13 received a copy of yesterday was signed because the copy of it
14 I had was not signed. I didn't know whether the Court was
15 going to conduct some sort of evidentiary hearing. I know that
16 if the Court were to entertain such a hearing, my client's wife
17 would like to be heard, but what I wanted to say is really
18 about the entirety of these allegations, and it's a very
19 difficult situation for me because the burden for the
20 Government is to show by a preponderance that this is an
21 applicable addition.

22 In a preponderance of the evidence we know -- with the
23 Court I certainly don't have to tell the Court -- that it's a
24 civil standard and it's usually based on properly admitted
25 evidence, and the Trier of Fact would have to decide after

1 hearing all the properly admitted evidence whether or not it's
2 been proven by a preponderance. But of course we know in this
3 situation, not only is it a preponderance, but the Court is
4 allowed to consider what would otherwise be inadmissible
5 hearsay and evidence that would not typically be received in
6 court.

7 THE COURT: You said that I can rely upon that?

8 MR. STEINGOLD: You can, yes. You can, but it makes
9 it difficult to argue against a preponderance when we're
10 dealing with -- in some instances in particular when we're
11 talking about the comments of the male cousin whose initials I
12 think are K.Z., we're talking about triple hearsay. We're
13 talking about things that allegedly Christine Barin told to him
14 that he told to the Agent, that the Agent summarized in a
15 report. So it's very difficult because it's hard to tell where
16 the facts began.

17 We have what I thought was an unsigned letter; apparently
18 it's signed.

19 THE COURT: I have -- it's typed. There's no signature
20 on it, but it has -- her name is on it and she did speak
21 directly to police officers in 2011.

22 MR. STEINGOLD: Well, that's when she made a report
23 in 2011, some 20 years after she claimed this -- these events
24 occurred, but there are things that it occurred to me would
25 have been addressed right from the get/go right when these

1 allegations first were brought up when we were having a
2 detention hearing before Magistrate Patti and eventually was
3 repeated in front of this Court.

4 My client, in particular his wife, alleged a couple of
5 things. Number one is that Christine Barin had previously made
6 a false allegation of sexual charges against her father, and
7 also that Christine Barin had asked my client and his wife to
8 raise her child, something at odds with the notion that my
9 client would have molested her at an age somewhat similar to
10 the age of her child, and you would have thought that those
11 charges would have been addressed by Miss Barin in a letter, in
12 the interviews that she had with the Agent. I want to talk a
13 second about those interviews.

14 Your Honor, I'm sorry if I get a little carried away.
15 This is very emotional for my client as for me, and I'm a
16 little bit frustrated about the continued allegations without
17 any sort of corroboration or proof and a perfect example I
18 believe is the fact that we have these reports by the Agent who
19 makes it very clear in the beginning of his reports that these
20 are summaries; that there are video and audios of these
21 interviews and that in fact this is just his summary of it, and
22 there's a lot of deletions in the summary. Perhaps the Court
23 doesn't have the same deletions I do and I'm not talking about
24 the names. We know who the names are. They can delete them,
25 but that's not keeping us from knowing what the substance of

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1 the report is, but there are huge blocks of deleted information
2 and I don't understand why at some point those interview videos
3 and audios weren't made available to the Court for it to
4 properly assess as best it can given the circumstances, the
5 credibility of the person speaking because they're asking you
6 to make a determination based on a summary given in some
7 instances of double and triple hearsay. When I say double and
8 triple, I'm talking about the two other cousins that are not
9 here. I'm talking about K.Z. and J.C. J.C, I think he signed a
10 letter. Am I allowed to use his name since he signed the
11 letter? I don't know, but you know who I'm talking about.

12 THE COURT: I do, yes.

13 MR. STEINGOLD: So this is a problem for me because
14 we have these reports and that's all we have. They don't
15 address, as I said, the significant allegation that they asked
16 my client and his wife to raise the child.

17 We have the triple hearsay. We have nothing signed by
18 K.Z. We have nothing to suggest why he would claim that he was
19 told by Christine Barin that she was molested when she was four
20 years old, and Christine Barin claims it was when she was 10
21 years old. There's been no resolution of that significant
22 conflict in what Christine Barin claims happened and what K.Z.
23 claims Christine Barin told him. We have -- I said K.Z; I
24 meant J.C. and that's why I'd rather use their names because
25 I'm going to confuse J.C. who's the male cousin with K.Z.,

1 which is the female cousin who again has not come forward,
2 refuses to make a statement, refuses to confirm anything even
3 to the Agent and we're left with nothing more than J.C., the
4 male cousin, claiming that K.Z. told her these things and J.C.
5 isn't here for us to find out when she said that, under what
6 circumstances, who else was there, why she never -- why she
7 never, why K.Z. never, J.C. never and why C.B. never reported
8 it to anyone for 20 years, except allegedly talking about it
9 amongst themselves -- until 2011 when we're told and we know
10 that Christine Barin came up with her father and made a report
11 to the Washtenaw County Prosecutor's Office or the Sheriff's
12 Department. Why they waited 20 years has not been resolved.

13 THE COURT: Well, Mr. Steingold, I understand that
14 you would be very much opposed to the Court adding in these
15 five extra points that will so dramatically affect your
16 client's sentence, but we have time and time and time and time
17 again in very public headlines seeing victims of sexual abuse
18 come forward 10, 20, 30, 40 years later and I don't think all
19 those women are lacking in credibility.

20 MR. STEINGOLD: I don't think so either, but I think
21 you have to look at the specifics of each case and in this case
22 in a family situation with the allegations that have been made
23 and the very strong likelihood that some of these could be
24 corroborated, you have as opposed to these mere allegations,
25 you don't have anything signed by K.Z. We have nothing signed

1 by J.C. We have absolutely nothing but double and triple
2 hearsay from them. We do have Christine Barin's statement and
3 also we have Heidi Barin's statement and I think that's
4 significant.

5 Heidi Barin is a doctor. I know the Court has read
6 through the letter that she wrote and it is significant because
7 this is a woman who Christine Barin and the other cousins
8 claims was molested as well, and I know the Court read the
9 letter and if I were to put pen to paper and try to write as
10 good a letter as I could on my client's behalf, I couldn't do
11 better than what Heidi Barin wrote, and she made it very clear
12 that there was never any hint of impropriety, that my client
13 always treated her appropriately, age-wise and otherwise and
14 that he's been an inspiration to her and has been the reason
15 both financial, emotional and otherwise for her achieving the
16 success that she has and completely refutes the notion that my
17 client has any tendency towards child abuse. Now this is a
18 woman who put her name on paper and was ready to come forward,
19 who's willing to talk to anybody, and I think that's important
20 because you can judge somebody's credibility if they're willing
21 to come forward. We don't know anything about K.Z. except that
22 she's refused to make a claim. She has not told anyone
23 allegedly except for her cousins, that she has been abused.
24 She certainly never said anything to the Agent who tried on at
25 least one and I believe more than one occasion to attempt to

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1 get her to make a statement. There's no reason why she wouldn't
2 have told her parents or anyone else if she would have told
3 C.B. and there's nothing to suggest that she's ever made these
4 allegations. Heidi Barin I think is important.

5 Father Arokiaselvan I think is very important. The Court
6 should know he's also present in court and I'm quite certain
7 the Court has reviewed the outstanding letter that he wrote on
8 my client's behalf. Now here's somebody who knows my client
9 better than perhaps anyone else in the courtroom except for his
10 wife. This is someone who's lived with him. This is someone
11 who has attested to my client's faith, devotion to the Church,
12 to charity, to his wife and to doing the right thing, and his
13 view of my client's character I think is significant and I
14 won't go over the quotes that I put in any Sentencing
15 Memorandum; I'm sure the Court has read them all. But between
16 Heidi Barin and Father Arokiaselvan we have two people who know
17 what my client is really all about; who's not alleged to have
18 been in this at any point in their life to get money from the
19 Barths, as Christine Barin has; who never asked my client for
20 anything, let alone to allow their daughter to live with them,
21 to raise her daughter which is -- it still hasn't been
22 addressed and to me is the single most confusing thing about
23 the allegations of Christine Barin. How could you ask the
24 person who you claim molested you as a child to raise your
25 daughter? It's without explanation.

1 You've got the letter from Dr. O'Neill (phonetic) from the
2 Birmingham Maple Clinic who after having my client undergo a
3 complete battery -- I think it was nine tests -- says there's
4 absolutely no indication that my client has any child predator
5 symptoms or anything to indicate that he was or is a child
6 predator.

7 We have the attesting to the charity work that my client
8 has performed over the years. We have the devotion he is to
9 the church. We have the fact that he's been in treatment and
10 of course I haven't address his medical issues yet- we're still
11 dealing with the enhancement.

12 But, Your Honor, there's one other comment that I just
13 have to mention that somehow found its way into the
14 Government's Sentencing Memorandum and that is the claim by
15 Miss Woodward that my client used his status as a doctor to
16 gain access to C.B, and maybe she read something that I didn't
17 because every report that I've read, even those made allegedly
18 by Christine Barin was that my client didn't use his status;
19 that was the family. In fact, Christine Barin's own parents
20 who asked my client to attend to her on the occasion when she
21 was sick back in 1991 or whenever it is.

22 THE COURT: Maybe so, but they asked him to attend to
23 her because he was a doctor.

24 MR. STEINGOLD: But he didn't use it to gain access.
25 They asked her to treat her because she was sick. They know

1 he's a doctor. They make it suggest that he was saying hey,
2 I'm a doctor, let me handle it, as though he wanted to get his
3 hands on her and there's absolutely nothing to suggest that's
4 true, not even from Christine Barin.

5 Your Honor, I can't explain the 10 years old versus the
6 four years old. I can't explain not reporting it for 20 years
7 to your own parents. I cannot explain why they would not have
8 addressed the suggestion, the allegation that my client and his
9 wife were asked to raise the child. I can't explain why they
10 haven't addressed the allegation that she had previously made a
11 false claim of sexual abuse against her father, but they're
12 trying to use this person who hasn't answered these to prove by
13 a preponderance that my client did something 25 years ago, and
14 it's hard to not believe that somebody who's making a statement
15 like that is telling the truth. It's hard because it's foreign
16 to our nature. None of us can imagine making a false claims
17 like that against someone, so you want to believe it's true,
18 but time and time again we've seen that these kinds of
19 allegations have been made and are being made for a lot of
20 reasons; sometimes monetary, sometimes for personal reasons
21 that we can't understand, but these false allegations do occur
22 and in this case we believe that it is financial and we believe
23 that Christine Barin was extremely upset that my client and his
24 wife told her no. If you want to live here with your children,
25 that's fine, but we're not going to raise your child so that

1 you can live a single life-style that they as devout Catholics
2 believed was not appropriate, not appropriate for her, not
3 appropriate for the child and that's significant and that's a
4 motivation and that took place before the report to the
5 Washtenaw County Sheriff and that makes no sense either. It's
6 completely inconsistent.

7 And we're talking about a preponderance of the evidence
8 and I believe that the preponderance of the evidence -- because
9 all they have is the mere allegations of Christine Barin; we
10 have nothing else.

11 They can claim that well, we've got the confirmation that
12 she talked to her cousin J.C. But again, J.C. claims that
13 Christine Barin says it happened when she was four years old.
14 Christine Barin doesn't make that claim, so how do we decide?
15 If you can't decide, then the decision should be that they have
16 not shown by a preponderance of the evidence that mere
17 allegations, especially in the absence of the refutation of the
18 allegations that we've been making for eight months -- we
19 brought this up eight months ago and I fully would have
20 expected if we're going to get a last minute letter like was
21 sent yesterday, that at least it would have addressed those two
22 significant claims and yet we have absolutely nothing.

23 Your Honor, I ask the Court to rule that the Government
24 has not proved by a preponderance of the evidence that my
25 client should be given those five-point enhancements and rule

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1 that the Guidelines are as suggested by the Defense.

2 Unless the Court has any other questions about that issue,
3 that's all I had on the Guideline issue.

4 THE COURT: I don't. Thank you. Miss Woodward.

5 MS. WOODWARD: Thank you, Judge. What Mr. Steingold
6 seemed to ignore in his argument is that we are here to
7 sentence his client for receiving child pornography, so I think
8 we start there.

9 THE COURT: No, we don't because this is about me
10 arriving at the proper Guidelines and nothing else is in
11 dispute besides these five points.

12 MS. WOODWARD: Understood. All I mean is when he
13 argues that there's not a preponderance of the evidence that
14 the Defendant sexually assaulted C.B. and he identifies in his
15 mind what the "problems" are with her statement, what he
16 doesn't acknowledge is that his client later possessed child
17 pornography which shows that he has a sexual interest in
18 children.

19 But setting that aside for a moment, on this objection --

20 THE COURT: (Interjecting) Miss Woodward, that
21 doesn't always translate into an interest in children. I mean
22 we know there are tons and tons of child pornography cases that
23 don't include this kind of enhancement or even a suggestion, so
24 I'm not seeing the connection between the fact that he had
25 pornography of prepubescent children as proof that he did

1 something to children 20 or 30 years ago.

2 MS. WOODWARD: Understood, Your Honor. For this
3 sentencing enhancement the Court needs to find that there's a
4 preponderance of the evidence that the Defendant engaged in two
5 instances of sexual misconduct against a minor. Those two
6 instances would be one, C.B. and two, K.Z. I'll just review
7 the evidence for the Court.

8 For C.B., she made a statement to the Washtenaw County
9 Sheriff's Department in 2011. She also made a statement to
10 Agent Ratermann and she is present in court today and would be
11 available to testify if that was what the Court wished.
12 However, I think that there's clearly a preponderance of the
13 evidence for that single instance of sexual assault against a
14 minor. That single instance doesn't get it us to the plus five
15 and then the Court needs to evaluate whether there's a
16 preponderance of the evidence for K.Z.

17 THE COURT: So what about some of the things that Mr.
18 Steingold has now said?

19 MS. WOODWARD: Specifically he asked why her letter
20 does not address the allegation that the Defendant claims that
21 she made an allegation against her father and that she asked
22 the Defendant to raise her child.

23 THE COURT: And the discrepancy in the age and perhaps
24 a polygraph and those points as well.

25 MS. WOODWARD: I didn't hear anything about a

1 polygraph.

2 THE COURT: I thought that I did. Mr. Steingold, did
3 you say that there was a way to test the truthfulness?

4 MR. STEINGOLD: I believe I addressed that in my
5 Sentencing Memorandum.

6 MS. WOODWARD: For the first two questions Mr.
7 Steingold raises, frankly Judge, I never asked Miss Barin if
8 she made an allegation against her father or if she asked the
9 Defendant to raise her child. The only source of that
10 information is the Defendant and his wife. I think it's clear
11 here that there is a lot of dispute in between the family
12 members and I found those allegations to be offensive and
13 hurtful and I did not ask her. I can ask her right now, Your
14 Honor, but to me she had made a statement to Washtenaw County
15 that was very clear. She then made a very clear unequivocal
16 statement to Agent Ratermann, and given that the standard here
17 is preponderance of the evidence, I didn't see it as my role to
18 ask her what I thought to be offensive questions based on what
19 the Defendant is saying about her. If the Court is interested
20 in answers to those questions, I can certainly ask her and
21 she's here and she did come in from Illinois today, but that's
22 why those are not addressed in her statement because to recite
23 for her everything that happened at the detention hearing both
24 in duty court and here and all of the hurtful allegations that
25 were made against her, when what we're here to do is to

1 evaluate the Defendant was not something I was comfortable
2 doing.

3 THE COURT: No, I fully understand that, Miss
4 Woodward.

5 Miss Barin, where are you? Hi. So this may be very
6 difficult for you, but you've heard what Mr. Barth's lawyer has
7 just said, and a lot of it has to do with your credibility and
8 would you mind coming forward and saying a few things?

9 MS. BARIN: No.

10 THE COURT: All right. Please. We're going to place
11 you under oath.

12 THE CLERK OF THE COURT: Would you raise your right
13 hand please?

14 **CHRISTINE BARIN, GOVERNMENT WITNESS, SWORN AT ABOUT 11:50 A.M.**

15 THE COURT: So, Miss Barin, you say in the letter you
16 gave -- sent to the Court that this happened when you were
17 eight and I think we've seen 10, we've heard four. Can you
18 address that?

19 MS. WOODWARD: She may not know. I believe that it's
20 only the cousin J.C. that said four. The statements I've seen
21 from her say eight or nine or 10.

22 MS. BARIN: I can be honest about that. It did
23 happen a long, long time ago. It only happened once. When
24 traumatic things happen to you as a child you try to block out
25 a lot of things. I don't know. It's either the fight or

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1 flight system. I just don't exactly remember my age, but I can
2 honestly tell you that it did happen. Yes, I didn't come forth
3 with it to my parents. It took me a long time because we were
4 at a family reunion and my uncle just came up to me and he had
5 asked me and said oh, we can watch Brianna for you because I
6 had left with my cousins to go hang out with them and which is
7 my 13-year old daughter now present. At the time she was
8 around eight, seven, and that just triggered in my head and I
9 ran to my father and had told him. I don't know --

10 THE COURT: When you mentioned it to your dad, when
11 was that?

12 MS. BARIN: That was around 2011, and then when I
13 told my father that, that's when he had told me you need to
14 tell the police about it. At the moment I was hesitant because
15 I felt oh, it took so long. What's it going to do now? But my
16 father was right. I had to speak up and here I am today to
17 speak up.

18 THE COURT: Another thing that Mr. Steingold said is
19 that you made an allegation against your father which turned
20 out to be --

21 MS. BARIN: (Interjecting) I have never said anything
22 about my father. I never asked them to raise my oldest
23 daughter. We have had lots of problems. My aunt, which is his
24 wife, my Tita Bona, she was having problems with her marital
25 issues because my Uncle Paul used to contact Heidi at the time

1 and give her money and stuff like that and help her through
2 school, which is the doctor right now and my aunt was upset
3 about that. We would meet up in Chicago -- this was back in
4 probably 2008 or 2009, roughly around there, and I was having
5 problems with the father of my child, Brianna, and they offered
6 to help me and stuff like that, but I've turned it down because
7 my father has always helped me with her, help raise her and
8 that's it. I have never asked them to take care of my daughter
9 or me. I have never -- or to take us in their home. None of
10 that. They've offered me, but I turned it down.

11 THE COURT: What about the allegation -- so you're
12 saying you never made an allegation against -- that your father
13 abused you and you say that you never asked them to raise your
14 child?

15 MS. BARIN: No. Yes, my father has never abused me,
16 hurt me in any way.

17 THE COURT: And you never said it falsely?

18 MS. BARIN: No, I have never falsely accused him or
19 even -- those words never came out of my mouth ever.

20 THE COURT: Mr. Steingold, do you have any questions?

21 MR. STEINGOLD: Your Honor, what I would like is for
22 Bona Barth to address the Court because she's the source of
23 these allegations and she's indicated a desire to address the
24 Court about these specific allegations, if the Court would
25 allow.

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1 THE COURT: Do you have any questions, Miss Woodward?

2 **EXAMINATION BY MS. WOODWARD:**

3 Q. While Miss Barin is up here I would just ask her since
4 we'll talk about K.Z. next, you have a cousin that has the
5 initials K.Z., is that right?

6 A. Kamille Zablim (phonetic), yes.

7 Q. And when you were -- did you ever talk to Kamille about
8 this?

9 A. As kids growing up when we would have get-togethers for
10 Christmas, Thanksgiving in Ann Arbor, Michigan at their
11 address, we would always play and then we'd always say oh, I
12 don't really want to go by Uncle Paul. He always wanted to
13 squeeze us and hug us tight and I just always felt
14 uncomfortable, and then as children I opened up about it to her
15 and she's like oh yeah, he does that to me. She's told me that
16 it never ended for her. It probably ended up until she was
17 about 12 or something like that. I don't remember exactly what
18 she had said. We never really talked about this as we got
19 older. We just suppressed the issue. It was more as children
20 we just talked about it because we'd always try to stay away
21 from him as much as possible.

22 THE COURT: Have you talked to her lately?

23 MS. BARIN: I have not, Your Honor.

24 THE COURT: Are you in contact with her?

25 MS. BARIN: I could be, yes.

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1 THE COURT: No, no. I am just wondering. Have -- do
2 you have an ongoing relationship with her?

3 MS. BARIN: No, just only when I see her at family
4 gatherings.

5 THE COURT: And it hasn't come up since you spoke
6 about it years ago?

7 MS. BARIN: No.

8 THE COURT: Anything else, Miss Woodward?

9 MS. WOODWARD: No, Your Honor.

10 THE COURT: Miss Barin, thank you. Thank you very
11 much.

12 MS. BARIN: Thank you, Your Honor.

13 MS. WOODWARD: For K.Z., Your Honor, I'll be brief. I
14 would just -- we have the facts that we have and those are that
15 what you just heard from Miss Barin, you have the report from
16 Agent Ratermann about his attempt to contact K.Z. He's also
17 available and he's here to testify today. What he would say
18 and what is in his report is that on October 21st while he was
19 in the Chicago area, which is where K.Z. lives, he contacted
20 her by phone and he identified himself on the phone and told
21 her that he was calling about the Defendant and that he had
22 heard that she -- something about her and potential sexual
23 assault. When she heard those words, she began to cry. She
24 was nonresponsive. The entire conversation if you can call it
25 that, was about five minutes long. She said something to the

1 effect of trying to move on with her life or put this behind
2 her. She then asked essentially to get back to Agent Ratermann
3 about whether she wanted to speak with him about this and then
4 later that day he received a call from her boyfriend who said
5 that she needed additional time to think about it, and then a
6 few days later her boyfriend called back and said that she
7 didn't want to talk about it. So I think that's obviously very
8 different than Heidi Barin who has written a letter to the
9 Court and emphatically denied that anything happened. And
10 those are the facts and I leave it up to the Court to determine
11 whether that satisfies a preponderance of the evidence for two
12 instances.

13 THE COURT: So Miss Woodward, we have K.Z. speaking to
14 J.C. and to Christine Barin years ago.

15 MS. WOODWARD: Correct.

16 THE COURT: And to Agent Ratermann in 2016.

17 MS. WOODWARD: Correct.

18 THE COURT: Thank you.

19 MS. WOODWARD: Thank you.

20 MR. STEINGOLD: May I have Miss Barth come forward,
21 Your Honor?

22 THE COURT: Certainly.

23 MR. STEINGOLD: Your Honor, may she be placed under
24 oath?

25 THE CLERK OF THE COURT: Raise your right hand

1 please.

2 BONA M. BARTH, DEFENSE WITNESS, SWORN AT ABOUT 11:55 A.M.

3 EXAMINATION BY MR. STEINGOLD:

4 Q. Tell the Court your name again.

5 A. My name is Bona Mattscheck Barth.

6 Q. You are the wife of the Defendant Timothy Paul Barth?

7 A. Yes.

8 Q. You are the aunt of Christine Barin who was just talking
9 to the Court?

10 A. Yes.

11 Q. There's two issues I wanted to ask you about. One is the
12 suggestion that she had previously made an allegation about her
13 father. Could you tell the Court what basis you had for
14 telling us that?

15 A. When my parents were alive, I talked to my mother because
16 I love my nieces and nephews. She was so young then and my
17 brother was the one who usually take care of her when we have
18 her, so I talked to my mother. Possibly this good idea would
19 take care of my niece, Christine, to adopt her for my daughter
20 because I don't have any other kid except my son, and my mother
21 cautioned me and said do not do that because that would cause
22 problem. Even though you want to do that for the good of your
23 niece, I would advise you not to do that because the mother of
24 your niece is accusing your brother that he molested Christine.
25 So I said what are you talking about? Because I would not

1 believe that because my brother is a good man. He took care of
2 her and that's why my mother said that's why I don't want you
3 to do that for adopting Christine. Just love them, help them
4 if they need it, but do not adopt Christine because of that
5 statement that apparently the mother of Christine when she was
6 young was even accusing my brother of molesting her. That is
7 why I mentioned that.

8 THE COURT: So you're talking about adopting
9 Christine?

10 MRS. BARTH: I wanted to adopt her.

11 THE COURT: This is different from taking care of her
12 daughter?

13 MRS. BARTH: This is a different separate one. This
14 is when my niece was very young, and she needed -- I thought
15 she needed more care, a mother care because my brother was not
16 married to her mother at the time. They used to come with my
17 whole family in our home and I see my niece with her father.
18 They come with them.

19 And in regards to her daughter, it was my niece,
20 Christine, when she calls me at home when she was in trouble
21 with her relationship with the father of her daughter, she
22 wanted me to take care of her daughter and I said yes, if you
23 would come with her, the two of you could come because they
24 were living with her small daughter with the father of her son
25 at that time and she was really having a hard time and she

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1 calls me and I would give her advice and I told her that if she
2 wants me to take care of her daughter she has to be with the
3 daughter. I will not take care of her daughter if she is not
4 with her, but she did not want to do that. She just want to
5 give me her daughter to take care of and I refused.

6 THE COURT: When did this happen?

7 MRS. BARTH: This was oh, several years ago.

8 THE COURT: Can you be a little more precise?

9 MRS. BARTH: Possibly --

10 THE COURT: How old was her daughter then? What is
11 the name of the daughter?

12 MRS. BARTH: Brianna.

13 THE COURT: How old was Brianna at the time?

14 MRS. BARTH: This is when -- possibly like eight
15 years ago when this happened.

16 THE COURT: How old is Brianna now?

17 MS. BARIN: She's 13.

18 MRS. BARTH: I don't remember exactly, but what I am
19 trying to emphasize, Your Honor, is that I was willing to help
20 them, to help my niece and her daughter, but I don't want her
21 leaving her daughter because I told her I will help you if you
22 come with your daughter. I will not take her alone. You going
23 to have to come with her. I'll help you go to school. I will
24 help you to start your life over again, but you cannot leave
25 your daughter alone, to just give her to me and you go and stay

1 in Chicago and live like a single parent and that is what I
2 mentioned to you.

3 Q. (By Mr. Steingold continuing) So I just want to make this
4 clear; that Christine Barin asked you and your husband to allow
5 her daughter to live with you?

6 A. Yes.

7 Q. That's what I wanted to ask. Your Honor, I have nothing
8 else to ask Miss Barth. I don't know whether Miss Woodward
9 would like to ask any questions.

10 THE COURT: Do you have any questions?

11 **EXAMINATION BY MS. WOODWARD:**

12 Q. I just wanted to clarify. Miss Barth, when we're talking
13 about your conversations with your mother about adopting
14 Christine, the information you got from your mother was that
15 Christine's mother had made an allegation against your brother,
16 correct?

17 A. Yes.

18 Q. Not that Christine herself had made any allegations?

19 A. It was her mother according to my mom. My mom is not
20 alive, so you cannot ask her.

21 Q. Sure, but it was not an allegation by Christine that you
22 were aware of?

23 A. Not that I am aware of.

24 Q. Thank you, Judge.

25 A. But I did not want to believe it because I know my brother

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1 is a good man.

2 THE COURT: And so you didn't do anything. You got
3 that information that there was some possible molestation and
4 what did you do with that information?

5 MRS. BARTH: So I listened to my mother because I did
6 not believe that my brother would do that.

7 THE COURT: So you didn't -- my point is you didn't go
8 to law enforcement. You didn't do anything with that because
9 you did not believe it could have happened?

10 MRS. BARTH: No.

11 MR. STEINGOLD: Your Honor, the only other matter I
12 wanted to address on the issue is the fact that they have to
13 have two instances, and so assuming that they're relying on the
14 second instances being something that happened to K.Z., what
15 I've heard from Christine Barin is that K.Z. would talk about
16 my client hugging her tight, an uncle hugging her niece tight.
17 I didn't hear any suggestion that my client touched her
18 inappropriately or molested her in any way, nor is there any
19 allegation by K.Z. to anyone, not to Agent Ratermann, not to
20 any law enforcement, not to an a parent, not to anyone else
21 that she was molested. I fully expected to hear Christine
22 Barin come up here and tell you that K.Z. told her something
23 more specific that could be interpreted as molestation. I
24 heard nothing of the kind.

25 Even if the Court were to credit Christine Barin's

1 statement, they have not carried the burden of showing a second
2 incident to sustain the addition of this five-point
3 enhancement, nor do I believe that a preponderance of the
4 evidence shows that Christine Barin was molested. The
5 questions that remain unanswered cannot be answered.

6 You've heard conflicting stories now about the attempt to
7 have my client and his wife raise the child, but we have had
8 nothing to explain why she would have told her cousin that she
9 was four years old and while she's now saying she was eight to
10 10. All of these questions remain unanswered and especially
11 with regards to K.Z. I believe that the Government has not
12 sustained its burden. The Court should not add the enhancement
13 and we should proceed to allocution. Thank you, Your Honor.

14 THE COURT: Thank you. Anything more, Miss Woodward?
15 I would -- I know what I just heard from C.B. I also know what
16 is outlined in the Presentence Investigation Report concerning
17 these incidents which the Court takes into account as well.

18 MR. STEINGOLD: Thank you, Your Honor.

19 MS. WOODWARD: Thank you, Judge. Yes, I think there's
20 a little more information in the reports, that are summarized
21 in the Presentence Investigation Report and that were attached
22 to my Memo about what Christine Barin said she was told by
23 K.Z., and I think it's more than what Mr. Steingold
24 represented. I think today there's a desire not to get into
25 too many of the details, but I think the facts are before the

1 Court.

2 THE COURT: All right. The issue before the Court is
3 whether the Court should include the enhancement which is
4 Paragraph 24 of the Presentence Investigation Report. The
5 enhancement is based on the Sentencing Guideline 2G2.2(b)(5)
6 which allows the Court to adjust the Offense Level by five if
7 it finds by a preponderance of the evidence that the Defendant
8 previously engaged in a pattern of activity constituting the
9 sexual abuse or exploitation of a minor and it has to involve
10 at least two people. The Government says that those two people
11 are nieces of Mr. Barth who have been identified as C.B. and
12 K.Z.

13 So the application note to 2G2.2 says that this pattern of
14 activity is present when a defendant commits at least two
15 separate instances of sexual abuse or exploitation. The other
16 incidences need not have occurred during the course of the
17 charged offense, need not have involved the same minor or even
18 resulted in a conviction, and sexual abuse or exploitation
19 could be something that would be an offense under State law or
20 under Federal law something that it is a criminal offense to
21 engage in or to attempt to engage in a sexual act with a person
22 who has not attained the age of 12.

23 The Court does find by a preponderance of the evidence
24 that this enhancement should be applied. There is some dispute
25 here concerning C.B.'s age when it happened, whether it was

1 when she was four, whether it was when she was eight or whether
2 she was 10. What is important to the Court is that she was not
3 12 which would make this a violation certainly under the
4 Federal law if it -- if there were charges that were filed.

5 What supports the Court's finding and the Court can base
6 this finding on hearsay evidence, we have evidence that C.B.
7 reported this to her father -- although it was years after --
8 reported this to her father in 2011. That prompted them to go
9 to law enforcement in 2011, and then there was another
10 statement that she made to Agent Ratermann in 2016. All of
11 these statements outlined offensive touching, vaginal touching,
12 certainly things that would qualify as an offense of criminal
13 sexual conduct.

14 With respect to K.Z., we had the testimony of Miss Barin
15 this morning. We also have more detailed statements that Miss
16 Barin gave that the cousin -- I'm getting my initials mixed up.
17 K.C., is that it?

18 MS. WOODWARD: K.Z.

19 THE COURT: K.Z. talked to J.C., talked to cousin
20 J.C. So we have K.Z. speaking to her cousin J.C. about this,
21 speaking to her cousin Christine Barin about this, speaking to
22 Agent Ratermann about it, and certainly being reluctant when
23 she talked to Agent Ratermann about the sexual conduct on the
24 part of Dr. Barth, but when she gave statements to J.C. and
25 C.B. earlier which the Court is inclined to credit, she too

1 outlined offensive sexual touching and much more detail of that
2 is in the Presentence Investigation Report and the Court does
3 not want to make it part of this record, but it's outlined in
4 Paragraphs 13 and 14 in the Presentence Investigation Report.

5 Just with respect to the delayed nature of these
6 statements, this Court is certainly no expert but certainly has
7 enough exposure to victims of sexual abuse to know there is
8 often repression of the events. There is shame that
9 accompanies it. There seems to be some family dynamics going
10 on here that would have made it difficult for people to come
11 forward. We have the testimony today of Mrs. Barth herself who
12 got a report of sexual abuse; she didn't believe it and she did
13 nothing with the information.

14 So there are different approaches that people take to this
15 very heinous crime and the tragedy is that it is so
16 under-reported and that it really does effect people's lives
17 for years and years and years before they do do something about
18 it.

19 For all of those reasons, the Court finds by a
20 preponderance of the evidence that the five points at Paragraph
21 24 should stay and should be factored into the Offense Level.

22 Mr. Steingold, I think that will take care of your
23 objections.

24 MR. STEINGOLD: I think so, Your Honor.

25 THE COURT: So let me just ask you. Mr. Barth, you've

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1 heard us now for the last hour. Do you have any objections to
2 this Presentence Investigation Report that we have not talked
3 about today or that Mr. Steingold has now just waived because
4 of the Court's ruling.

5 MR. BARTH: The Court has ruled, Your Honor.

6 THE COURT: So my question is do you have any other
7 objections that we should make part of this record?

8 MR. BARTH: No I don't.

9 THE COURT: Thank you. So the Offense Level is 35.
10 The criminal -- you can take your seats. The Criminal History
11 is One. The Guideline range the Court must take into account
12 is 168 to 210 months.

13 I'll hear from you, Miss Woodward, on sentencing and then
14 from you, Mr. Steingold.

15 MR. STEINGOLD: Thank you.

16 THE COURT: And your client.

17 MR. STEINGOLD: Thank you.

18 MS. WOODWARD: Thank you, Your Honor. Although the
19 Government certainly advocated for and believes that the
20 five-level enhancement absolutely applies in this case which
21 results a Guideline range of 168 to 210 months, we are seeking
22 and do believe if the Court wishes to impose a below Guideline
23 sentence here that that is appropriate and the Government has
24 requested a sentence of 120 months.

25 The reason for that is as we look at this Defendant and at

1 his conduct as he stands before the Court today, the Court has
2 to evaluate his aggravating and his mitigating factors and the
3 seriousness of the offense for child pornography offenders of
4 course is very serious, but Mr. Barth's conduct in relation to
5 other child pornography offenders, the Government does concede
6 it does not put him at the top of people who download and
7 distribute child pornography. That is one of the reasons a
8 sentence less than 168 months is appropriate here.

9 He did look at child pornography for years. It did depict
10 prepubescent girls engaged in sex acts with adult men, but the
11 size of his collection was around 4000 images and there's not
12 evidence that he was talking to minors online or talking to
13 other child pornography offenders, and I think that is
14 something the Court can consider.

15 A sentence of 120 months is significant and much higher
16 than the mandatory minimum here of five years. I think that's
17 a sentence that would place Mr. Barth right where he should be
18 with other child pornography offenders. It's a significant
19 sentence, but not greater than necessary to accomplish the
20 objectives of 18 U.S.C. 3553. Thank you.

21 THE COURT: Thank you. Mr. Steingold.

22 MR. STEINGOLD: Your Honor, it's always a judgment
23 call what is sufficient but not greater than necessary.
24 There's a lot of factors the Court has to take into
25 consideration. Most of them have been addressed in my

1 Presentence Memorandum.

2 I'm a bit devastated by the Court's ruling, especially
3 with regards to K.Z., but we have to accept it and move on.
4 The point is that if it did occur, we're talking about
5 something that happened 25 years ago or thereabouts. It's hard
6 to say. There's been no suggestion that my client has done
7 anything untowards anyone in the last 25 years.

8 As the Court knows, my client himself was a victim, was
9 treated severely when he was a juvenile in detention in
10 Chicago; that's been detailed in the Presentence Investigation
11 Report as well as in my Sentencing Memorandum, and he's had to
12 try to come to grips with what happened and the way that he
13 found some way to deal with it is in sympathizing and emulating
14 (sic) with the victims of child pornography.

15 There's never a good reason to view child pornography and
16 I'm certainly not trying to make an excuse for him, but I'm
17 suggesting that this is a man who has demonstrated throughout
18 his years and as attested to by the letters from not just Heidi
19 Barin, but also Father Arokiaselvan that he's a good man. He's
20 devout Catholic, that he's devoted to his family. He's devoted
21 to the Church. He's devoted to doing good things for good
22 people and has done that for his entire life. Both him and his
23 wife have been significant contributors to the welfare of the
24 family. They feel it's their obligation to help those who
25 can't in their family do it for themselves, so they funded

1 people's education and they've done all the things that the
2 Court has read about.

3 Now my client is at the latter stages of his life and the
4 Court I know has read the letter of Dr. Tye (phonetic) that
5 details the myriad of physical problems that my client has to
6 deal with. It think it was -- I kind of lost count of how many
7 things, but between the knees and the heart problems and the
8 paralysis and everything else, his life expectancy is not
9 expected to be 10 years. I believe the life expectancy, and it
10 is put in Dr. Tye's (phonetic) report, I think it was 60 to 65%
11 or thereabouts to live five years and 30 to 35% to live 10
12 years. So while the Prosecutor can say that that's not more
13 than necessary, percentage-wise it's a death sentence. It is a
14 suggestion that my client will die in jail and the question is
15 whether or not that is necessary to achieve the goals of 18
16 U.S.C. Section 3553. His life has been devastated. His life
17 is ruined. The family life is ruined. The divisions between
18 my client's wife and the rest of her family are things that
19 will never be repaired.

20 He is not going to go -- to commit any other crimes. He's
21 not physically capable of moving, let alone doing anything like
22 is suggested he did in the past.

23 When you talk about deterrence, I don't think giving my
24 client a departure down to the five-year minimum is going to
25 encourage anybody to engage in child pornography.

1 In terms of punishment, five years at this stage of his
2 life with his physical infirmities is a severe punishment, and
3 the supervised release that will follow is not going to be much
4 easier.

5 My client is barely able to be mobile. I'm asking this
6 Court to consider the departure I requested under U.S.S.G.
7 Sections 5H1.1 and 5H1.4 dealing with his age, as well as his
8 health history and rule that five years is sufficient but not
9 greater than necessary, and I can only hope and pray that my
10 client lives through those five years.

11 THE COURT: Thank you. Mr. Barth, do you wish to
12 address the Court?

13 MR. BARTH: Yes, Your Honor. I pleaded guilty to
14 receiving child pornography. I never minimized or justified my
15 crime. When asked in April if my guilty plea was the best
16 thing for me, I was speechless. I pleaded guilty because it
17 was the right and honest thing to do, not as a matter of what
18 was best for me.

19 I consistently stated I used my computer to download child
20 pornography, even though the initial exposure was a pop-up in
21 late 2012. Government forensic investigation has confirmed I
22 never contacted, solicited or shared these pictures with
23 others.

24 My crime has had far-reaching unfortunate consequences for
25 my family. They have been devastated by humiliation, shame and

1 scorn. I don't deny my culpability and I am entirely
2 responsible for the evil they have encountered and I am
3 entirely responsible in this regard.

4 I assure the Court, both my wife and son had no knowledge
5 of my interests viewing or downloading of any pornographic
6 images of any sort.

7 I apologize to my wife. I'm deeply sorry for my betrayal,
8 the injuries and harm I caused you, our son, our grandchildren
9 and the rest of your family. I hope that in the future they
10 are somehow restored to you.

11 I know your retirement savings has been stolen as legal
12 fees, fines and charges diminished the savings which have been
13 planned for our mutual benefit. Your continuing humiliation,
14 deep shame, isolation from community, church family and
15 friends, hopelessness and helplessness, all I caused you by my
16 actions are the source of my greatest remorse. I know you are
17 losing me. I thank you for your extraordinary loyalty. I hope
18 to live long enough to return to you if it is still your wish.

19 I want to thank my church and its clergy for offering me
20 reconciliation, pastoral visits and mass in our home during my
21 home incarceration. This includes Father Arokiaselvan who's
22 here today.

23 I want to thank my psychotherapist who every 16 months has
24 provided me with invaluable assistance in understanding what
25 happened to me and its consequences at a time in my life when

1 language, especially about emotions and feelings, was
2 incoherent in my early adolescent mind.

3 Finally, I want to thank Your Honor for allowing me to be
4 home for the past eight months to support and comfort my wife
5 in this time of abandonment by family and friends. I realize
6 that it is the innocent, both in my family and especially the
7 children sexually abused in the downloaded pictures that
8 constitute the victims of my offense. My childhood experiences
9 caused me to identify with their soul deadening, degradation
10 and shame. To compound these victims' injury and indignity
11 with my contribution to the demand for such images I'm truly
12 sorry and ask forgiveness.

13 Your Honor, I understand the law and your judicial
14 responsibility. I will comply with the proffered sentences
15 just, merciful and required recompense for my offenses. Thank
16 you.

17 THE COURT: Thank you. Anything more, Mr. Steingold?

18 MR. STEINGOLD: Nothing, Your Honor.

19 THE COURT: Anything more, Miss Woodward?

20 MS. WOODWARD: No, Your Honor.

21 THE COURT: Thank you. You can take your seats. So
22 the Court announced that the Offense Level here is 35. The
23 Criminal History Category is one and the Guideline range is 168
24 to 210 months.

25 The Court must decide whether a sentence within that range

1 or below it or above it is a sentence that is sufficient but
2 not greater than necessary.

3 The Court does believe that a sentence below that
4 Guideline range is one that would be -- would serve the
5 purposes of the Sentencing Statute. Let me just talk a little
6 bit about some of the Court's considerations.

7 Just as a starting point, Mr. Barth and Mr. Steingold, you
8 both say that his life is ruined, that his family has been
9 devastated by shame and by scorn and I'm almost hearing as an
10 after-thought that the children who are depicted in this type
11 of child pornography are -- their lives are devastated by
12 shame, by scorn. Their lives are ruined because somewhere
13 there had to be children used to create these videos, and while
14 in the whole scheme of things the number of images that Mr.
15 Barth may have had in his possession are small compared to
16 others who have pled guilty to this crime, the long-lasting
17 effect on victims of child pornography certainly cannot be
18 taken for granted, and they didn't bring this upon themselves.
19 They didn't bring the ruin, the devastation, the shame, the
20 scorn. They didn't do that to themselves; you did this to
21 yourself. You did it to your family, and so what has happened
22 in your family is frankly one of the Court's least
23 considerations.

24 So I say that to emphasize how serious I consider this to
25 be, how important it is for a sentence to reflect that and to

1 serve as a deterrent and who knows if any of these sentences
2 are having any kind of deterrent effect, but those who are part
3 of this industry of child pornography really do have to
4 understand that they are not the victims because they got
5 caught and because they are facing a lot of time in prison.

6 Mr. Steingold has asked the Court to take into account
7 certain considerations that could cause your sentence to be
8 reduced and I think that those considerations do have merit.
9 The Court is well aware of your age. I believe you're 67 now;
10 is well aware of the many fold physical ailments that are
11 outlined in the Presentence Investigation Report and in the
12 Sentencing Memorandum, the mental health issues, your own
13 history of abuse, the fact that you have sought treatment for
14 this attraction that you have to child pornography, those are
15 all things that factor in your favor, Mr. Barth, but they
16 certainly don't warrant the kind of discount that Mr. Steingold
17 is asking the Court to give to your sentence.

18 So I have taken into account all of the considerations
19 that the Court must take into account under the Sentencing
20 Reform Act of 1984. The Court has considered the Sentencing
21 Guidelines and the factors in 3553(a). The Court does sentence
22 you to the custody of the Bureau of Prisons for a term of 100
23 months.

24 Upon release from prison, Defendant is placed on
25 supervised release for a term of five years.

1 It is further ordered that Defendant pay a Special
2 Assessment of \$100; it's due immediately.

3 You are also responsible for paying a \$5000 assessment
4 pursuant to the Justice for Victims of Trafficking Act; that is
5 due immediately.

6 The Court -- and I need to ask you this, Miss Woodward. I
7 know that the Rule 11 talked about perhaps \$5000 in restitution
8 to each victim. Has anyone filed any kind of claim?

9 MS. WOODWARD: No, Your Honor.

10 THE COURT: Given that then, the Court waives the cost
11 of incarceration and waives the cost of supervision, but the
12 Court is going to impose a fine on Mr. Barth. The Court has
13 looked at your financial resources; they are significant and
14 the Court imposes a fine of \$20,000.

15 Mandatory drug testing condition is suspended based on the
16 Court's determination that Defendant poses a low risk of future
17 substance abuse.

18 While on supervision, Defendant is to abide by the
19 standard conditions adopted by this Court and shall comply with
20 the following special conditions:

21 Due to Defendant's self-reported history of mental or
22 emotional problems, he is to submit to a psychological or
23 psychiatric evaluation as directed by Probation, if necessary
24 and Defendant is to participate in a program approved by
25 Probation for mental health counseling.

1 Due to Defendant's personal history and the
2 characteristics of this offense, these conditions are ordered:

3 He's to comply with the requirements of the Sex Offender
4 Registration and Notification Act as directed by Probation, the
5 Bureau of Prisons or any State Offender Registration Agency in
6 which you reside.

7 Defendant is not to associate with minor children under
8 the age of 18 except in the presence of a responsible adult who
9 is aware of the nature of your background and current offense
10 without prior approval of Probation.

11 Defendant is not to have unsupervised contact with your
12 own minor children at the discretion of the probation officer.

13 Defendant is not to frequent places where children
14 congregate on a regular basis.

15 Defendant is to notify anyone that you may subsequently
16 date or marry with minor children under the age of 18 of this
17 conviction.

18 Defendant is not to purchase, sell, view or possess images
19 in any form of media or live venue that depict pornography,
20 sexually explicit conduct, child erotica or child nudity, and
21 Defendant is not to patronize anyplace where this material or
22 entertainment is available.

23 Defendant is to have employment pre-approved by Probation
24 and you shall not be employed at or participate in any
25 volunteer activities that involve contact with minors under the

1 age of 18 or adults with disabilities without prior approval.

2 You are to have all residences pre-approved by Probation,
3 and you shall not provide care or live in a residence where
4 children under the age of 18 or adults with disabilities reside
5 without prior approval.

6 Defendant is to provide Probation with accurate
7 information about all computer systems, all passwords and
8 Internet service providers that Defendant has potential access
9 to and abide by all rules of the Probation Department's
10 Computer Monitoring Program, and you shall only access the
11 computer that's been approved by Probation.

12 You also are to consent to Probation conducting periodic
13 unannounced examinations of all computer systems, which may
14 include computer monitoring software at your expense.

15 For the purpose of accounting for all computers, hardware,
16 software and accessories, Defendant is to submit yourself, your
17 computer, your home to searches conducted by Probation at a
18 reasonable time and manner. You're to inform any other
19 residents that your premises and your computer may be subject
20 to these periodic searches.

21 You are to provide Probation with access to any requested
22 financial information, including billing records for telephone,
23 cable, Internet and the like.

24 You are also to submit yourself, your home, your office,
25 your vehicles, your papers, your business or place of

1 employment and any property under your control to a search.
2 This search is to be conducted by a probation officer at a
3 reasonable time and in a reasonable manner based upon a
4 reasonable suspicion of contraband or evidence of a violation
5 of a condition of release, and failure to submit to the search
6 may be grounds for revocation. You are to warn any residents
7 who live with you that your premises may be subject to search.

8 You are to successfully complete any sex offender
9 diagnostic evaluations, treatment or counseling programs as
10 directed by Probation. Reports pertaining to sex offender
11 assessments and treatment shall be provided to Probation and
12 based on your ability to pay, you are to pay the cost of any
13 diagnostic evaluations, treatments or counseling programs in an
14 amount determined by Probation.

15 You are to -- you must submit to periodic polygraph tests
16 at the discretion of Probation as a means to insure compliance
17 with the requirements of supervision or treatment. No
18 violation proceeding will arise solely on the result of a
19 polygraph examination. Based on Defendant's ability to pay,
20 you will pay for polygraph examinations.

21 Defendant is to make monthly installment payments on any
22 remaining balance of any restitution that may be imposed,
23 Special Assessment and Assessment pursuant to the Justice for
24 Victims of Trafficking Act at a rate and schedule approved by
25 Probation.

1 You are to not incur any new credit charges or open
2 additional lines of credit without approval of Probation unless
3 you are in compliance with any payment schedule imposed on you.

4 And finally, you are to provide the probation officer
5 access to any requested financial information.

6 That is the sentence of this Court. Are there any
7 objections?

8 MR. STEINGOLD: None, Your Honor. I would make two
9 requests. First, that the Court consider a recommendation to
10 the Federal Bureau of Prisons that my client be designated to a
11 medical facility. I believe Buttner, Springfield and Rochester
12 are all potential facilities that are best suited to treat the
13 myriad of medical issues that confront my client.

14 I would also ask the Court to adopt a recommendation of
15 Pretrial Services and allow my client to self-report when
16 designated to the institution.

17 THE COURT: Thank you. Miss Woodward?

18 MS. WOODWARD: No objections to the sentence, Your
19 Honor, or to Mr. Steingold's request that the Defendant be
20 allowed to self-surrender.

21 I would just put the forfeiture on the record here that
22 the Defendant has agreed to forfeit property identified in the
23 Amended Preliminary Order of Forfeiture that was entered on
24 July 28th and that forfeiture of that property is part of the
25 Defendant's sentence and we request that it be included in this

1 Judgment, and then I would move to dismiss the remaining count.

2 MR. STEINGOLD: We have no objection.

3 THE COURT: Thank you. The Court will put in this
4 Judgment -- will recommend a medical facility, will allow Mr.
5 Barth to self-surrender and the Court will sign the amended
6 stipulated Preliminary Order of Forfeiture. Anything else?

7 MR. STEINGOLD: Nothing, Your Honor.

8 MS. WOODWARD: No, Your Honor.

9 THE COURT: Thank you. We're adjourned.

10 (Proceedings adjourned at about 12:40 p.m.)

11 - - -

12 COURT REPORTER'S CERTIFICATION

13 STATE OF MICHIGAN)

14) SS.

15 COUNTY OF WAYNE)

16 I, Janice Coleman, Federal Official Court Reporter, in and
17 for the United States District Court for the Eastern District
18 of Michigan, do hereby certify that pursuant to Section 753,
19 Title 28, United States Code, that the foregoing is a true and
20 correct transcript of the stenographically reported proceedings
21 held in this matter and that the transcript page format is in
22 conformance with the regulations of the Judicial Conference of
23 the United States.

24 /S/ JANICE COLEMAN

25 JANICE COLEMAN, CSR NO. 1095, RPR

FEDERAL OFFICIAL COURT REPORTER

DATED: September 20, 2017

JANICE COLEMAN, CSR 1095, RPR
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